

February 27, 2004

Assistant Commissioner of Patents

Washington, DC 20231

PROTEST UNDER 37 CFR 1.291(a)

Re: Apparatus and method for executing a game program
having advertisements therein

US File # **20020040322**

Filed: 12/6/01

Sirs:

Recently I found the above referenced patent filing and believe this filing has NOT issued in the U.S. The US File # is **20020040322**

I am voicing an objection as a concerned third party and as a U.S. Citizen. The patent filing describes at great length an advertising delivery system dependent upon a databases maintained at the client level in a client-server ad delivery system. The appropriate ads are selected through profiling techniques at the server level then a database is created and downloaded (transmitted) via the internet (0062) to the "Game System" at the User's computer. Multiple ad databases may be downloaded and stored to correspond with an appropriate game. The Game System software can monitor play habits and display content (display advertising) based on voluntary user actions and related game triggers correlating with the appropriate ad database for that game. The ad databases are remotely controlled and updated or replenished frequently. (0033)

The abstract clearly states, "A game system which is operable to update advertisements that are displayed when a game program is executed. The system stores a game program in a memory, receives (i.e., downloads), at predetermined times of operation, for example, on each new day the game program is executed or each time the game program is executed, updated advertising data that relates to at least one advertisement, stores the received advertising data in the memory, executes the game program stored in the memory, and outputs during the execution of the game program display data which corresponds to the stored advertisement data in accordance with the game program code. Further, instead of downloading new advertisements, plural advertisements may be pre-stored with the game program and only advertisement selection codes are downloaded to update the advertisements that are displayed when the game program is executed."

Relevant Claims are 1, 2, 3, 4, 5, 10, 11, 12, 13, 14 and others that discuss downloading new content to the client and replacement of old content based upon a number of other voluntary user actions exemplified through game play. The system is described in (0012) (0013) (0027) (0039).

This is referred to as "pull" advertising as a voluntary action on the part of a user interacts with a pre-established database and a targeted ad is displayed.

I am objecting to this patent filing as it is neither novel nor unique. It is of particular note that no prior art was submitted with this filing and only some vague references to server profiling systems. The filers are correct that a targeted system based on voluntary user movements client software interactions is more accurate and excels in its ability to deliver "relevant" ads at the exact moment of interest. However, the filers did not include the following references:

1. US Patent 6,141,010 ... similar technology
2. Gator.com (recently changed to Claria.com) has been marketing such a system since 1998 or 1999
3. WO9955066 (A1) or EP1076983 (A1) ... similar technology

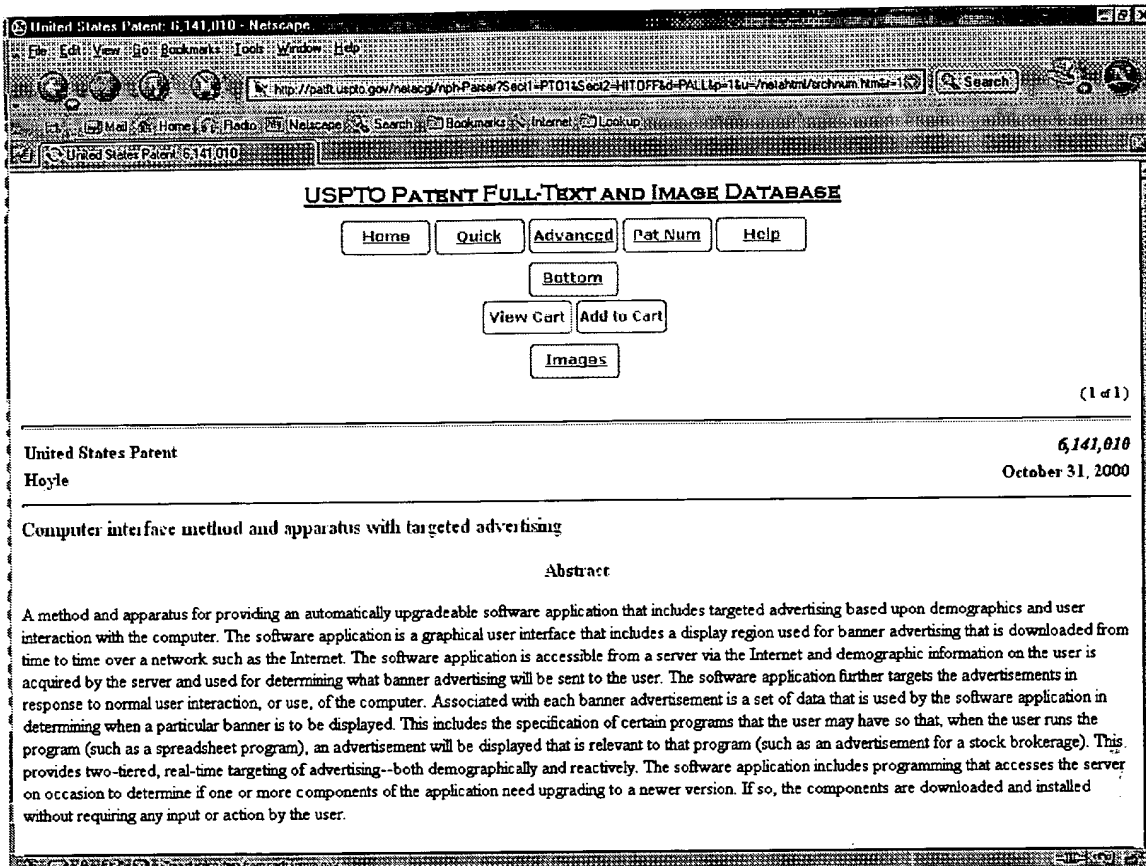
There may be more prior art preceding the 12/6/2001 filing.

I believe the Examiner should look very closely at the Claims made and judge accordingly.

The screenshot shows a Netscape browser window displaying the Esp@cenet website. The address bar shows the URL: <http://v3.espacenet.com/textdoc?A=Zetmark&FIRST=1&CY=ep&LG=en&DB=EPODOC&L=A&KW=Zetmark&Submit>. The page title is "Esp@cenet document view". The main content area displays patent information for CA2328913, titled "TELEPHONE CALL MANAGEMENT SOFTWARE AND INTERNET MARKETING METHOD". The information includes:

- Bibliographic data:**
 - Patent number: CA2328913
 - Publication date: 1999-10-28
 - Inventor: ZETMEIR KARLO (US)
 - Applicant: ZETMEIR KARLO (US)
 - Classification: International: H04M3/00
 - European: EP1076983 (A1)
- Also published as:**
 - WO9955066 (A1)
 - EP1076983 (A1)
- Application number:** CA1999/0002041, 1999/0414
- Priority number(s):** US1999/0002041, 1999/0414, WO1999/0002041, 1999/0414

The abstract of CA2328913 is also visible, describing a telephone call management computer program that provides both call management features and long distance savings for telephone consumers and marketing and advertising services for sponsor companies that wish to advertise to the consumer.



Claria - Corporate Overview - Overview - Netscape

File Edit View Go Bookmarks Tools Window Help

http://www.claria.com/companyinfo/

Mail Home Radio Netscape Search Bookmarks Internet Lookup

Claria - Corporate Overview - Overview

CLARIA.

CORPORATE OVERVIEW

- CORPORATE OVERVIEW
 - Overview
 - News Room
 - Research/Partners
 - Employment
- ADVERTISE
- PRODUCTS & SERVICES
- CONTACT US

Overview

■ Claria Corporation Overview

Claria Corporation is the leader in online behavioral marketing, serving over 38 million consumers and more than 900 Advertisers – including over 60 Fortune 1000 companies. Claria publishes advertising messages for top tier companies and agencies to consumers who are part of the GAIN Network, Claria's network of over 38 million consumers who agree to receive advertising based on their actual online behavior.

Unlike traditional demographic targeting, Claria's behavioral marketing model combines powerful insights into consumer behavior and the ability to deliver contextually targeted messages. The relevancy of the messages drives click-through and conversion rates up to 40 times higher than traditional banner ads – boosting campaign results to unprecedented levels. The difference is Claria's deep insights into consumer online behavior. Claria allows advertisers to target consumers based on their individual needs and interests resulting in industry leading ROI, not mass demographically targeted Web site populations.

In addition to its advertising network, Claria provides marketing research and business insights through its Feedback Research division. Feedback Research delivers in-depth analytics of consumer Web usage patterns across the entire Internet that cannot be attained via any other research provider. It also provides full service custom marketing research to Fortune 1000 clients. With exclusive access to the GAIN Network's 38 million consumers, Feedback Research surveys hard to reach consumers, based on their individual online behavior, quickly and cost-effectively.

■ History

Claria was founded in 1998 as The Gator Corporation to deliver the promise of one-to-one marketing on the Internet. The guiding vision was to develop a massive consumer audience by offering valuable web/software content for free in exchange for the right to show highly targeted advertising based on consumers' anonymous surfing behavior. Launched in June 1999, the Gator eWallet was the company's first free ad-supported software product, and it quickly grew to become the most popular product in its category.

By November 1999, Claria had revolutionized the online advertising industry by introducing its contextual and behavioral relevant online advertising model. This new advertising method resulted in unparalleled ROI for advertisers.

Claria headquarters are located in Redwood City, California, with U.S. offices in Los Angeles, Chicago, New York, Detroit, Austin, and International offices in the U.K. and Asia. Claria is backed by top-tier venture capitalists such as Greylock, Technology Crossover Ventures, U.S. Venture Partners, Investor AB and Crosslink Capital.